

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: November 14, 2001
TIME: 9:00 am
PLACE: David Trask Bldg.
2145 Kaohu Street, Conf. Rm. 207
Wailuku, Maui, Hawaii

Chairperson Gilbert S. Coloma-Agaran called the meeting of the Commission on Water Resource Management (CWRM) to order at 9:10 a.m.

The following were in attendance:

MEMBERS: Mr. Gilbert S. Coloma-Agaran, Dr. Bruce Anderson, Mr. Brian Nishida, Mr. David Nobriga, Mr. Herbert Richards, Jr.

STAFF: Linnel Nishioka, Roy Hardy, Eric Hirano, Glenn Bauer, Charley Ice

EXCUSED: Mr. Robert Giraldo

COUNSEL: Edsel Yamada

OTHERS: Sally Raisbeck, David Craddick, Jonathan Starr, William Meyer, Dorothy Williams, James Williamson, Gordon Tribble, Steve Gingerich, Celeste King, Christina Hemming, Megan Powers, Glenn Shepherd, JoAnne Johnson, Paul Achitoff, Daniel Grantham, Lucienne deNave, Danny Agsalog, Sheri Morrison, Jock Yamaguchi, Manabu Tagomori, Harry Eager, Colleen Chang, Carl Freedman, Elliott K., Anders Frank Lyons, Susan Moikeha, Thelma Shimaoka, Richard T., Terri Reim

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties.

1. Minutes of the October 17, 2001 meeting

MOTION: (RICHARDS/NISHIDA)
To approve the minutes.
UNANIMOUSLY APPROVED.

2. Old Business/Announcements by Deputy Director Linnel Nishioka

Clarification was made from the Commission meeting of October 17, 2001. Monies in the amount of \$300,000 is part of the Federal budget for our Agriculture Water Use and Development Plan.

Deputy Director Nishioka withdrew staff submittals Items 5, 6 and 8 from this meeting's agenda upon requests from the applicants who would like to provide staff with some additional information.

3. Maui Meadows Homeowners Association, C/o James Williamson, Vice President, Recommendation for Continuance on the Petition for Ground Water Management Area Action, Iao & Waihee Aquifer Systems, Wailuku, Maui

ORAL AND POWERPOINT PRESENTATION OF SUBMITTAL: Roy Hardy

AMENDED RECOMMENDATIONS:

That the Chairperson recommend to the Commission:

1. ~~Deny the continuance of~~ Continue the Petition to designate both Iao and Waihee Aquifer Systems.
2. To continue with its August 13, 1997 decision that requires automatic designation of the Iao Aquifer System should the 12-month moving average reach 20 mgd.

Mr. Roy Hardy gave a powerpoint presentation on the designation process and some background of Iao. He talked about both the Iao and Waihee Aquifers in their past and current hydrologic conditions noting the significance of the current 4-year drought, behavior of the transition zone, the limitations the well infrastructure is placing on the aquifers and new alternative sources that have come online in the past 4 years since the last designation proceedings. It would appear conditions are improving since the last Commission action although perhaps not as fast as some people would like to see. Attached to these minutes is a copy of Mr. Hardy's powerpoint presentation.

From U.S. Geological Survey (USGS), Mr. Gordon Tribble, District Chief and Steve Gingerich, Groundwater Specialist for Hawaii provided technical information on the Iao and Waihee Aquifer Systems through a powerpoint presentation. They did not give testimony for or against designation. One of the main points that Mr. Tribble raised was that there is no single fixed value for sustainable yield. The current pumping levels may also not be sustainable over the long term. Because these two aquifers are not independent, the pumping from the Waihee Aquifer is affecting the water levels in the Iao Aquifer. Given the importance of this area as a source of groundwater and municipal supply for the Island of Maui and the extent to which it is being utilized, it may be prudent for all to consider

increasing the sophistication of collecting hydrologic data and the tools used to collect these data.

Mr. Steve Gingerich talked about the input and output of a hydrologic system. Rainfall input is a major component of recharge. Irrigation, fog drip, and runoff, which are subtracted from input, are measured from stream and stream gages. Evaporation of water from plants does not make it in as recharge. The soil stores water. Estimates need to be refined because pumping is occurring so close to the sustainable yield. The biggest unknown in the Iao Aquifer is the permeability and the storage property of the rocks. More testing is needed to analyze this. The output from the system is the natural groundwater discharge to the ocean in the absence of pumping. Most of the water goes directly to the ocean. Some groundwater is discharged in streams and springs or flows through adjacent systems. The location of wells and pumping will determine the pumpage of the system. The USGS, CWRM and the Dept. of Water Supply (DWS) are working together in collecting data. There has been a significant rainfall deficit since 1997 and 1998.

Mr. Gingerich pointed out some chloride concentration in a couple of wells. The chlorides in the Waihee Well has risen but not at a point of concern yet. In the Waiehu 1 during the past few years, the chloride levels have risen very dramatically. Mr. Gingerich also made note of rising chlorides in other wells.

TESTIMONY BY APPLICANT:

Ms. Dorothy Williams of Maui Meadows Homeowners Association (Association) stated that the main concern of the Association is that the Iao Aquifer is being over pumped. The Association has expressed their concern to the Department of Water Supply. They have recommended that a new independent source be developed to relieve the demands on the aquifer, but this has not occurred. The Association feels that better management of the resource should be implemented.

Mr. James Williamson stated that there is a serious problem with the entire aquifer. Pumping needs to be reduced and well distribution should begin. They disagree with the USGS data that the rise of the transition zone is slowing. Since 1998 the rise has been at a rate of 6.3 feet per year. The Association would agree to a deep monitor well. The saltwater transition zone has been rising at a significant rate. Mr. Williamson stated that the Commission should accept the responsibility as designation experts. He concluded that contrary to staff's view, the Association has not seen any improvements in management procedures for the Iao Aquifer over the last 4 years. He stated that it is time to take immediate steps to correct the overpumping of this aquifer system.

TESTIMONIES:

Ms. Sallie Raisbeck who lives in Wailuku and depends on the Iao Aquifer for water stated that despite reports from the DWS, some management of the aquifer is needed to prevent it from being overpumped. Ms. Raisbeck strongly urged the Commission to hold a public hearing on the petition so that the public could have the opportunity to voice their concerns about protecting the resource.

Mr. Jonathan Starr, Member of the Maui Board of Water Supply, gave his own personal comments on staff's submittal that may not represent how the board members feel. He feels that there are reasons of concern that the resources are suffering in that the water levels are decreasing and the salinity goes up. He feels that the Commission should move in the direction of numerical modeling than sustainable yield. He is concerned about the water utilization in Iao and Waihee Aquifers. Mr. Starr felt that the data the staff is collecting is not accurate. He felt that designation and management of the aquifers would obtain more accurate data from all sources.

Mr. Bill Meyer stated that he is for "management" of Iao. He also stated that members of the BWS feel the DWS is simply a utility entity and doesn't feel it can manage the resource properly. He feels that the aquifer is not being managed properly. He stated that he understood that the Commission has the authority to manage the aquifers if designation is approved.

Ms. Celeste King asked the Commission for their help in managing Maui's water system. She wants the Commission to take over management of the aquifers.

Ms. Christina Hemming stated that she strongly urged the Commission to make Maui a water management area. She encouraged the Commission to stop issuance of pump installation permits until an assessment of the water quantity has been made. Ms. Hemming works in a hotel and stated that there are no conservation measures being taken at this hotel.

Ms. Megan Powers, a 30-year resident of the island of Maui, stated that she urged and support the designation of a water management area for Maui.

Mr. Glenn Shepherd asked the Commission to take a look at the Iao Aquifer petition in a conservative manner. He stated that this is a very important resource. He also stated that in certain parts of the mainland where mismanagement of reservoirs occurred, the recovery process was not successful. He felt that the aquifer could be managed by the Department of Water Supply. He concluded that he would like to see the Iao Aquifer be managed.

Ms. JoAnne Johnson, Council Representative for West Maui, stated that the resources need to be managed and leadership needs to be implemented.

Paul Achitoff, Esq. of Earthjustice stated that there is no attempt in the staff submittal to address the legal standard for designation, but instead a vague opinion is stated that if circumstances that exist change for the better sometime in the future. The submittal gives no suggestion of what the applicable law might be. Mr. Achitoff stated that according to the law, the Commission must designate the aquifer when it can reasonably be determined that the water resources may be threatened by existing or proposed withdrawals or diversions of water.

Mr. Daniel Grantham, Co-chair of the Maui group, Sierra Club, has for a long time supported management of the water resources on Maui. They have also expressed concerns about the usage and allocations of water. He stated that he would personally like to see the entire island designated. He felt that the island would benefit if management were imposed.

Ms. Lucienne de Naie of Maui Tomorrow urged the Commission for more management of the resources and to take the long-range view of the aquifers. The Iao and other aquifers are the public's resource and they deserve the highest level of responsible planning.

Mr. Danny Agsalad asked the Commission if designation will bring revenues to the Island of Maui and also if there was a process to undo the designation.

Mr. David Craddick, Manager of the Department of Water Supply (DWS), stated that they would continue to work with the Commission on doing what is needed for the better for everyone. He believes that the DWS is doing a good job at protecting the water resources.

Chair Coloma-Agaran asked for a motion to enter into executive session to confer with counsel on this item.

MOTION: (NOBRIGA/RICHARDS)

At 12:46 pm the Commission went into Executive Session to confer with counsel on Item 3 of this agenda.

The meeting was resumed at 1:32 am.

With regard to well developments in the 2 aquifers, Mr. Craddick stated that DWS will over the next 2 years inspect and install a pump in the Waikapu Well and North Waihee (Kupaa); drill another well north of the current where drilling is occurring; and continue the process in East Maui, drilling one well at a time. The Waiehu Heights Well will be used only for a backup situation and not for normal demand. At the Mokuahau Well pump No. 2 was taken out about 4 years ago so there are no chlorides coming from that well. DWS is expecting to make the Wailuku Shaft a permanent well facility either drilling into that well or installing a well nearby. This will require additional funding by bringing it online, and this well will produce sufficient amounts of water. For about 3 to 4 months, the Mokuahau Well will be

shut down to see what the water level rises to in that area. He anticipates that the water level will rise to 17 feet.

Commissioner Anderson stated that the facts are clear as it relates to the degradation of the resources. There are chloride increases in some of the wells. There is also reduction in the head of those wells. He stated that this situation should stabilize at some point. He said that drought may have something to do with some of the issues. Commissioner Anderson is also concerned the users of the water supply who the DWS has no control over. One cannot manage property if he doesn't have the authority over. Commissioner Anderson feels that more information is needed on this issue before a final decision can be made. Given the circumstances, it is prudent to gather information so that a firm decision can be made on designation.

Commissioner Anderson made a motion to support Chair Coloma-Agaran's recommendation to continue the proceedings with the understanding that we will be able to gather more information on the Iao and Waihee Aquifers before a final decision is made.

To clarify, Chair Coloma-Agaran stated that there will be a public hearing and a report from staff. Then, the Commission will make a decision.

MOTION: (ANDERSON/RICHARDS)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

4. **Waiahole-Waikane Community Association, Hakipu'u Ohana, Ka Lahui Hawaii, Kahalu'u Neighborhood Board No. 29, and Makawai Stream Restoration Alliance, PETITION FOR DECLARATORY ORDER DENYING BISHOP ESTATE'S WATER USE PERMIT APPLICATION FOR FAILING TO COMPLY WITH THE COMMISSION ON WATER RESOURCE MANAGEMENT'S FINAL DECISION AND ORDER IN THE WAIAHOLE DITCH COMBINED CONTESTED CASE HEARING (DEC-OA00-G6)**

Kamehameha Schools APPLICATION FOR A WATER USE PERMIT, Waiawa Development Tunnel (Well No. 2657-05), TMK 9-6-05:003, Existing/New (Irrigation and Dust Control) Use for 4.2 mgd, Koolaupoko, Kahana, and Waipahu-Waiawa Ground Water Management Areas, Oahu

PRESENTATION OF SUBMITTAL: Roy Hardy

RECOMMENDATIONS:

Staff recommends that the Commission approve a 90-day extension of time, to the Commission's regular meeting in February 2002, to submit a recommendation to the Commission on the amended petition for declaratory order and the subject application.

Commissioner Nishida recused himself from this item.

TESTIMONY BY APPLICANT:

Mr. Manabu Tagomori of Kamehameha Schools had no objections to staff's submittal.

MOTION: (NORBIGA/RICHARDS)

To approve the submittal.

UNANIMOUSLY APPROVED.

7. WCPT/GW Land Associates, LLC, AFTER-THE-FACT PUMP INSTALLATION PERMITS, Wailea 670 Irrigation Wells 1 & 2 (Well Nos. 4125-01 and 4125-02), Pump Installation: 500 gpm for Irrigation Use, TMK 2-1-8:55, Wailea, Maui

PRESENTATION OF SUBMITTAL: Mr. Charley Ice

AMENDED RECOMMENDATIONS:

That the Commission:

- 1) Find that ~~Palauca Bay Partners~~ WCPT/GW Land Associates, LLC, permittee for Wailea 670 Irrigation Wells (Well Nos. 4125-01 and -02) is in violation of the Water Code, HRS §174C-84(a) Permits for Well Construction and Pump Installation, Administrative Rules §13-168-12(j); and HRS §174C-85, Administrative Rules §13-168-13 Well Completion Report, as summarized in Exhibit 10.
- 2) Fine ~~Palauca Bay Partners~~ WCPT/GW Land Associates, LLC a total of \$38,050 for the violation in Recommendation 1 that is payable within thirty (30) days to the Commission.

TESTIMONIES:

Ms. Christina Hemmings stated that she felt no reduction in fees should be given WCPT and that they should be charged the full amount with no mitigation factored in.

Ms. Sallie Raisbeck stated that there is no excuse for a corporation of this magnitude to not have obtained the necessary permits. She stated that WCPT should be assessed the full amount in fines.

The name of this testifier was inaudible, but she stated that WCPT should be charged the full violation fees. She felt that the full violation amount would not affect this company.

Ms. Lucienne de Naie of Maui Tomorrow stated that they have been tracking this particular well because of the serious impacts this development would have on an area that is already over populated and over utilized. She stated that if it is possible to send out a message that the Commission deserves to have their procedure followed, she supports sending forth that message.

Mr. Daniel Grantham added that there are water meters that are given out in this area for people who have not been on a waiting list. This is one reason the residents are under the impression that the area is being mismanaged.

MOTION: (NOBRIGA/NISHIDA)
To approve the submittal as amended.
UNANIMOUSLY APPROVED AS AMENDED.

MOTION TO ADJOURN: (RICHARDS/NOBRIGA)

This meeting was adjourned at 2:22 pm.

Respectfully submitted,

FAITH F. CHING
Secretary

Attachment

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA
Deputy Director